

STATE OF MICHIGAN
COURT OF APPEALS

JERRY STEHLIK,

Plaintiff-Appellee,

and

HAROLD STEHLIK,

Plaintiff,

v

ANTHONY TUBBS,

Defendant-Appellant,

and

MABLE POLCZYNSKI,

Defendant.

UNPUBLISHED

December 28, 2004

No. 249717

Wayne Circuit Court

LC No. 98-811154-CH

Before: Markey, P.J., and Fitzgerald and Owens, JJ.

PER CURIAM.

Defendant appeals by right the trial court's order granting plaintiff's motion for rehearing/relief from judgment and vesting title to certain property in plaintiff. We affirm.

In 1992 defendant purchased a residence. He did not know that the property taxes were due and owing for the year 1991, so he did not pay them. Plaintiff purchased the residence at a tax sale in 1995 and subsequently filed suit to quiet title to the property. After a bench trial, the trial court quieted title to the property in defendant. The trial court found that a process server served notice of the sale and defendant's right of reconveyance on defendant's fourteen-year-old daughter, Antonisha. Ultimately, the trial court found that although Antonisha testified that had

she been served with the documents she would have given them to defendant, service was void because Antonisha was not of the age of majority and thus was not a person “of mature age.”¹

The trial court dismissed plaintiff’s motion for rehearing without prejudice, but specified that the motion could be refiled, and that any refiled motion would relate back to the date of the filing of the original motion.

Plaintiff claimed an appeal from the original judgment. Another panel of this Court dismissed the appeal pursuant to a stipulation entered into by the parties.

While the claim of appeal was pending, plaintiff filed a motion for rehearing/relief from judgment pursuant to MCR 2.612(C)(1)(f). After the claim of appeal was dismissed, the trial court granted plaintiff’s motion, vacated the original judgment, and quieted title to the property in plaintiff.

A trial court may not set aside or amend an order or judgment from which a claim of appeal has been taken or leave to appeal has been granted except by order of this Court, by stipulation of the parties, after a decision on the merits in an action in which a preliminary injunction was granted, or as otherwise provided by law. MCR 7.208(A).

Defendant argues that the trial court lacked jurisdiction to hear plaintiff’s motion for rehearing/relief from judgment because plaintiff had filed a claim of appeal from the same judgment. We disagree. Plaintiff refiled the motion for rehearing/relief from judgment while the claim of appeal was still pending; however, the refiled motion related back to a date that preceded the filing of the claim of appeal. Moreover, the claim of appeal was dismissed before the date on which the trial court ruled on the motion for rehearing/relief from judgment. Defendant cites no authority for his assertion that the trial court lacked jurisdiction to rule on the motion for rehearing/relief from judgment after the claim of appeal was dismissed. A party cannot simply state a claim and then leave it to this Court to search for authority to support or reject that claim. *Leitch v Switchenko*, 169 Mich App 761, 764; 426 NW2d 804 (1988).

A trial court may relieve a party from a final judgment or order for various enumerated reasons, or for “[a]ny other reason justifying relief from the operation of the judgment.” MCR 2.612(C)(1)(f). We review a trial court’s decision to grant relief from judgment for an abuse of discretion. *Detroit Free Press, Inc v Dep’t of State Police*, 233 Mich App 554, 556; 593 NW2d 200 (1999).

Defendant argues that the trial court abused its discretion by granting plaintiff’s motion for rehearing/relief from judgment. We disagree. The purpose of MCL 211.140 is to achieve notice. *Youngblood v DEC Properties*, 204 Mich App 581, 583; 516 NW2d 119 (1994). MCL 211.140(6) does not specify what age is considered a “mature age.” The trial court correctly

¹ MCL 211.140(6) provides that service of the notice of sale and right of reconveyance may be made on a grantee by leaving the documents at the grantee’s residence with a member of the grantee’s family “of mature age.”

recognized that in light of the absence of authority holding that a person must be of the age of majority in order to be considered “of mature age” and its original finding, based on Antonisha’s testimony, that Antonisha would have given the documents to defendant, plaintiff was entitled to relief from the original judgment. The trial court did not abuse its discretion by granting plaintiff’s motion for rehearing/relief from judgment and vesting title to the property in plaintiff.

We affirm.

/s/ Jane E. Markey

/s/ E. Thomas Fitzgerald

/s/ Donald S. Owens